

Exhibit E

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

BRANDON LESTER

vs.

SMC TRANSPORT, LLC AND ISRAEL
MARTINEZ, JR. AND SALINAS
EXPRESS, LLC

§
§
§
§
§
§
§
§

CIVIL ACTION NO.
7:15-CV-665

ORAL AND VIDEOTAPED DEPOSITION
SERGIO CUELLAR
April 20, 2016

ORAL AND VIDEOTAPED DEPOSITION OF SERGIO CUELLAR, produced as a witness at the instance of the Plaintiff and duly sworn, was taken in the above-styled and numbered cause on April 20, 2016, from 9:23 a.m. to 11:24 A.m., before Annette E. Escobar, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine at the offices of La Posada Hotel, La Posada Hotel, 1000 Zaragoza Street Laredo, The Blue Bonnet Conference Room, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

COPY

1 APPEARANCES

2 ATTORNEY FOR PLAINTIFF:

3 Johneal M. White
4 Victor Skaff
5 GLENN ROBINSON & CATHEY, PLC
6 400 Salem Avenue, Suite 100
7 Roanoke, VA 24016
8 Telephone: 540.757.2200
9 Fax: 540.767.2220
10 E-mail: jwhite@glenrobinson.com

11 ATTORNEY FOR DEFENDANT:

12 Lawrence A. Dunn
13 MORRIS & MORRIS, P.C.
14 11 South 12th Street, 5th Floor
15 Richmond, VA 23219-1998
16 Telephone: (804) 344-8300
17 Fax: (804) 344-8359
18 E-mail: ldunn@morrismorris.com

19 ATTORNEY FOR DEFENDANT:

20 David W. Hearn
21 SANDS ANDERSON PC
22 1111 East Main Street, Suite 2400
23 Richmond, VA 23219-1998
24 Telephone: (804) 783-7285
25 E-mail: DHearn@SandsAnderson.com

26 ATTORNEY FOR DEFENDANT, SALINAS EXPRESS, LLC:

27 Daniel P. Frankl
28 FRANKL, MILLER & WEBB, LLP
29 1711 Grandin Road
30 P. O. Box 4126
31 Roanoke, VA 24215
32 Telephone: 540.527.3515
33 Fax: 540.527.3520
34 E-mail: dfrankl@franklmillerwebb.com

35 ALSO PRESENT:

36 Frank Estrada, Videographer

1

INDEX

		PAGE
2	WITNESS:	
3	SERGIO CUELLAR	
4	Examination by Ms. White	4, 73
5	Examination by Mr. Frankl	55
6	Examination by Mr. Hearn	73
7	Witness Signature	77
8	Court Reporters Certification	78
9		
10		
11		

EXHIBITS

	NO.	DESCRIPTION	PAGE
12	12	Photographs	54
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

1 P-R-O-C-E-E-D-I-N-G-S

2 Whereupon,

3 9:23 a.m.

4 THE VIDEOGRAPHER: We are on the record.

5 Today's date is April 20th of the year 2016. The time is
6 approximately 9:17 in the morning, and you may proceed
7 with the deposition, please.

8 SERGIO CUELLAR,

9 having been first duly sworn, testified as follows:

10 EXAMINATION

11 BY MS. WHITE:

12 Q Mr. Cuellar, my name is Johneal White and I
13 represent a young man named Brandon Lester who was injured
14 in the accident in Virginia on October 26th, 2015.

15 And do you understand -- well, can you say
16 your full name for the record?

17 A Sergio Cuellar.

18 Q And are you one of the principals of SMC
19 Transport LLC?

20 A Yes.

21 Q And do you understand that SMC Transport LLC is
22 a defendant in this lawsuit that we're here about today?

23 A Yes.

24 Q And do you understand that this deposition today
25 has been noticed under provision of the rules that allows

1 us to take the deposition of a corporation --

2 A Yes.

3 Q -- or a Corporate entity?

4 And have you agreed to come represent SMC
5 Transport in that capacity?

6 A Yes.

7 Q And answer questions for SMC Transport to the
8 best of your ability?

9 A Yes.

10 Q What's your current address?

11 A My current address as the business?

12 Q What's your personal?

13 A Personal is 805 America Street, Weslaco, Texas
14 78596.

15 Q Who lives there with this?

16 A Me, my wife and my daughter.

17 Q What's your wife's name?

18 A Migdalia Ramos, or now Cuellar.

19 Q Migdalia?

20 A Yes.

21 Q How long have you been married?

22 A I've been married a year.

23 Q And what's -- how old is your daughter?

24 A She's ten.

25 Q Do you have any other children?

1 A Yes.

2 Q And who are those?

3 A I have three other daughters. Her name is
4 Kayla, Amber and Casey Cuellar.

5 Q Do they all live here in Texas?

6 A Yes.

7 Q What's the business address for SMC Transport?

8 A It's 2309 Largo Street in Weslaco, Texas 78596,
9 zip.

10 Q And is that a separate building?

11 A Yes.

12 Q And is that a building you own or do you rent
13 it?

14 A No, it's my brother's house.

15 Q What's his name?

16 A Servando.

17 Q Servando Cuellar?

18 A Yes.

19 MR. FRANKL: Spell that, please.

20 THE WITNESS: S-E-R-V-A-N-D-O.

21 Q (By Ms. White) And SMC Transport is in the
22 trucking business?

23 A Yes.

24 Q And do you -- does SMC Transport own any trucks?

25 A They own, there's two vehicles under SMC, one is

1 owned by SMC and the other one is my father's, Servando.

2 Q Servando, Sr.?

3 A Sr.

4 Q Are they stored when they're not being used at
5 this Largo Street address?

6 A No.

7 Q Do you have a separate lot where you keep them?

8 A Yes.

9 Q Where is that?

10 A The address is -- everybody usually takes their
11 trucks home, but I have a yard where I park my trucks.

12 The address is 23 -- I'm sorry, it's 2618th Street in
13 Weslaco, Texas.

14 Q Twenty-six?

15 A 2618 -- I don't really know the address. I just
16 know the location, but it's 2618 East 18th Street.

17 Q East 18th Street in Weslaco?

18 A Yes.

19 Q And is that piece of property that you own?

20 A No.

21 Q Who owns that?

22 A It's a church and I use the back part parking
23 lot of the church.

24 Q What's the church that owns it?

25 A The name of the church is The Door.

1 Q The daughter?

2 A The Door.

3 Q The Door?

4 A D-O-O-R, The Door Christian Fellowship.

5 Q And are there any vehicles titled in the name of
6 SMC Transport LLC?

7 A Yes, two vehicles.

8 Q And what vehicles are those?

9 A One is my father's, Servando Cuellar Sr., and
10 the other one is SMC that it's, that 2003 Freightliner.

11 Q The one that was involved in this accident?

12 A Yes.

13 Q What year and model is your father's vehicle?

14 A It's a 1997.

15 Q Freightliner Peterbilt?

16 A Yes, Freightliner.

17 Q And do you have -- do both of those vehicles
18 bear the name SMC on the side of them?

19 A Yes.

20 Q SMC Transport LLC?

21 A Yes.

22 Q And do both of those vehicles bear the SMC DOT
23 number?

24 A Yes.

25 Q Are there any other vehicles that currently bear

1 the, that say SMC Transport LLC and bear the SMC DOT
2 number on the side of them?

3 A Yes.

4 Q What vehicles are those?

5 A It's, like, seven other vehicles.

6 Q And those are not ones that you own or that SMC
7 owns?

8 A No.

9 Q Who owns those seven other vehicles?

10 A Two of them they're owned by me, by Sergio
11 Cuellar.

12 Q Personally?

13 A Yes.

14 Q And the others?

15 A I have one is Maria Guzman, the other one is
16 Roland -- I don't recall his last name. There's two
17 vehicles under, his name is Israel Pruneda, Israel
18 Pruneda, and there's two from -- I can't remember the
19 name. I don't remember their name right now off of my
20 head.

21 Q And let me go back a little bit. Who owns SMC
22 Transport LLC?

23 A I do.

24 Q Just you?

25 A Yes.

1 Q Does SMC Transport LLC have any employees?
2 A Employees, as what kind of employees?
3 Q Any employees?
4 A Well, they're owner operators of their vehicles,
5 they're employed by SMC. I mean, I do have one, Hector
6 Quintanilla he's a safety.

7 Q How long has Hector been working for you?
8 A I'm going to say about a month, maybe two
9 months.

10 Q Was there someone previously in that position
11 before Hector?

12 A I had Keesha Guerrero, she would do billing.

13 Q How long did she work for you?

14 A Three years.

15 Q When did she stop?

16 A In December of 2015.

17 Q Why did she stop working for you?

18 A She got a better position offered in Dallas,
19 Texas. They would pay for her school.

20 MS. WHITE: Let's go off the record.

21 THE VIDEOGRAPHER: The time is 9:27 in the
22 morning, and we are off the record.

23 THE VIDEOGRAPHER: The time is 9:31 in the
24 morning and we are back on the record. You may continue
25 with the deposition, please.

1 MS. WHITE: Thank you.

2 Q (By Ms. White) All right. So Keesha left in
3 December 2015?

4 A Yes.

5 Q What was her job title?

6 A Billing.

7 Q Was she the same officer also?

8 A Yes, she would help me as safety.

9 Q Did she have any other duties?

10 A No.

11 Q Do you know where she works now?

12 A No.

13 Q Currently besides Hector, do you have, does SMC
14 have any other, aside from drivers, have any other
15 employees?

16 A No.

17 Q In October 2015 besides Keesha and besides any
18 drivers did SMC have any other employees?

19 A No.

20 Q What were -- so Keesha did billing?

21 A Yes.

22 Q Did she have any other specific job
23 responsibilities?

24 A Not really. I mean, doing billing.

25 Q Who dealt with insurance issues at SMC?

1 A I did.

2 Q So you were the one responsible for obtaining
3 insurance on vehicles?

4 A Yes.

5 Q Who at SMC is responsible for assigning job
6 duties, routes?

7 A I do.

8 Q How does that process work?

9 A If I get a load, I dispatch the truck to the
10 load that I send them to, to the location.

11 Q Who decides who drives what vehicle?

12 A All the vehicles have their driver.

13 Q They have an assigned driver?

14 A Yes.

15 Q Who assigns, who assigns the driver to the
16 specific vehicle?

17 A They're all owner operators. They drive their
18 own trucks. They have -- they're owner operators leased
19 to SMC Transport.

20 Q Well, for instance, the two you own personally?

21 A One is my dad Servando Cuellar and he drives his
22 own truck.

23 Q All right. And the other, the one that was
24 involved in this accident, who would decide, assign a
25 drive to that vehicle?

1 A I would.

2 Q Did that vehicle have a regular driver at the
3 time of this accident?

4 A No.

5 Q Why not?

6 A The truck was not ready for, for being used?

7 Q What does that mean?

8 A The truck had issues, it wouldn't go, it wasn't
9 working. It wouldn't go more than five to 15 miles an
10 hour.

11 Q When did you first acquire the truck involved in
12 this accident?

13 A The question inquire?

14 Q When did you first buy it?

15 A When did I what?

16 Q When did you buy it?

17 A When did I buy the truck?

18 Q Yeah.

19 A I bought it like in July 29th. The vehicle?

20 Q July -- yeah.

21 A July 29, 2015.

22 Q Who did you buy it from?

23 A Rick Morales.

24 Q Where is he located?

25 A I don't know here he's located. I know he's

1 from Harlingen area, Harlingen, Texas.

2 Q Did you go up there and meet with him to buy it
3 or how do you know him?

4 A No. At that time there was another vehicle that
5 was leased to me and he bought one truck from Rick Morales
6 and he told me that he had a truck parked, and that he was
7 selling it, so I said I'll buy it from him.

8 Q So someone who is leased on to SMC bought a
9 truck from Rick?

10 A Yes.

11 Q Do you know who that was?

12 A Yes, his name was Roosevelt Faz.

13 Q How do you spell his last name?

14 A F-A-Z.

15 Q Roosevelt Faz.

16 So Roosevelt bought a truck from Rick and
17 then told you Rick had another?

18 A Yes.

19 Q And so you purchased it from Rick at that time.

20 A Yes.

21 Q And did you buy it outright or did you have to
22 finance it?

23 A No, it was -- I gave 3,000 down and then I paid
24 it in payments.

25 Q Is it paid off?

1 A Yes.

2 Q When was it paid off?

3 A The last payment I gave on it it was on, if I'm
4 correct it was in December.

5 Q Of 2015?

6 A Yes.

7 Q So at the time of this accident happened you
8 were still making payments on it?

9 A Yes.

10 Q Did Rick have a lien on it?

11 A Yes.

12 Q When you -- after you acquired it in July 2015
13 was it operational?

14 A No.

15 Q What did you do with it?

16 A I had to repair a turbo, a turbo so it can run,
17 so it wasn't drivable. Just took it to my yard, parked it
18 in my yard.

19 Q And when did it get repaired?

20 A In August -- every week I would put money into
21 it slowly trying to repair it.

22 Q But it was drivable in August 2015?

23 A Yes.

24 MR. DUNN: Well, I object to the form of
25 the question. Drivable -- I exactly want to clarify what

1 you're asking on that.

2 Q (By Ms. White) Was it able to be driven in
3 August 2015?

4 A Well, we were repairing it. I mean, it would be
5 drivable, but it wasn't working. It would still continue
6 with the issue not going more than 15 to 20 miles an hour.

7 Q When did it first -- when was that issue
8 completely corrected to where it would go more than 15 to
9 20 miles an hour?

10 A I'm going to say about October 15.

11 Q Of 2015?

12 A Yes.

13 Q And before this accident happened had it pulled
14 any loads for SMC Transport?

15 MR. DUNN: Object to the form of the
16 question. What do you mean pulled any loads?

17 Q (By Ms. White) Had it hauled any freight for SMC
18 Transport?

19 A No.

20 Q Had it done anything in the business of SMC
21 Transport?

22 A We tried to go load a trailer, but it wouldn't,
23 still continue with the same, not pulling.

24 Q When was that?

25 A I'm going to say about -- I don't have a

1 specific day, but I want to say about October 10, October,
2 about those days October 15th in between there.

3 Q Who did the repair work on it?

4 A I did.

5 Q Personally?

6 A Yes.

7 Q What was wrong with it?

8 A I repaired the turbo, replaced the turbo,
9 replaced the turbo sensor and changed the oil, did a lot
10 of stuff to the truck and slowly trying to get it ready.

11 Q Where did you acquire the parts?

12 A Where did I require the parts?

13 Q Yeah, where did you get the parts to fix it?

14 A The dealer.

15 Q What dealer?

16 A Freightliner, there's United Truck Sales,
17 with -- I buy parts from Burton Auto Supplies in Weslaco.

18 Q Burton Auto is that your local dealer that you
19 generally get supplies from?

20 A I get supplies from wherever we need.

21 Q So do you purchase them on the internet?

22 A No.

23 Q Is there a -- is there a local dealer that you
24 use?

25 A All of them are local, the Freightliner, there's

1 Burton Auto and United Truck Parts.

2 Q Okay. So the -- there's a local Freightliner
3 dealer in Weslaco?

4 A In Edinburg, McAllen, Texas.

5 Q McAllen. And United Truck in?

6 A Pharr, Texas.

7 Q Where is that?

8 A Pharr, Texas.

9 Q F-A-R.

10 A P-H-A-R-R.

11 Q And Burton Auto where is that located?

12 A Weslaco.

13 Q In October -- around October 15th, 2015 is when
14 the truck started working properly to be drivable?

15 A I still had issues with it.

16 Q Well, it made it all the way to Virginia at some
17 point.

18 A Yes, it did.

19 Q Does it surprise you that it did that?

20 A Actually, I mean, he had no weight on it, I
21 mean, compared to a load. A load you're pulling
22 40,000 pounds, and he made it to Virginia. I mean, the
23 know the accident happened there in Virginia, so.

24 Q But was there any mechanical issue with the
25 truck at the time when it was in Virginia?

1 A Like I said, I had just repaired the second time
2 turbo on it and the sensor at that time.

3 Q Did you -- did you at all test drive it before,
4 after you repaired it the turbo and before it went to
5 Virginia?

6 A Yes, I test drove it.

7 Q When was that?

8 A Around that time, October 15th to around that
9 time.

10 Q And were you able to exceed more than 15 to
11 20 miles an hour at that time?

12 A Yes.

13 Q Did you ever test it while hauling a load?

14 A No.

15 MR. FRANKL: I'm sorry .his answer was?

16 THE WITNESS: No.

17 Q (By Ms. White) And so was this trip to Virginia
18 the first time it had been used for any long stretch of
19 time --

20 A Yes.

21 Q -- for SMC Transport?

22 MR. DUNN: I'm going to object to the form
23 of the question because it wasn't being used to for SMC
24 Transport when it went to Virginia, so.

25 Q (By Ms. White) Was this trip to Virginia the

1 first time that it had been used for any stretch of time
2 since you, since SMC Transport owned the the vehicle?

3 A Yes.

4 Q When did you put the SMC Transport logo and DOT
5 number on the side of it?

6 A I don't have a specific day but it was like in
7 August of 2015.

8 Q And after you purchased it in July 2015, but
9 before this accident, who had driven that SMC Transport
10 truck?

11 A Nobody, just me.

12 Q You know Roy Salinas?

13 A Yes, I know Roy Salinas.

14 Q Is he your cousin?

15 A Yes.

16 Q Had he ever driven that truck before?

17 A Not that I remember.

18 Q While it was owned by SMC Transport had anyone
19 other than you driven that truck?

20 A No.

21 Q At the time this accident happened there was a
22 wench attached to the truck?

23 A Yes.

24 Q Is that a wench owned by SMC Transport?

25 A Yes.

1 Q When did SMC acquire the wench?

2 A It was like in 2014.

3 Q Was it previously on a different truck?

4 A No.

5 Q So was it just sitting in your yard?

6 A It was mine. It was hitch -- it was hooked on
7 to my truck, the black one.

8 Q The one involved in this accident?

9 A Yes.

10 Q When did you -- when did it become attached to
11 that truck?

12 A About two weeks prior to that because it didn't
13 work. About October 12 around those days.

14 Q So the wench was not operational before the
15 middle of October 2015?

16 A What do you mean the wench was not operational?

17 Q So had you ever used that wench on any other
18 vehicle since buying it in 2014?

19 A I'm sorry. Yes, I have.

20 Q Okay.

21 MR. DUNN: Let me just make a clarification
22 point here. When you say you, you're talking SMC
23 Transport?

24 MS. WHITE: Yeah.

25 Q Had that wench ever been used by SMC Transport

1 from the time you bought it to the time of this accident?

2 A Yes, it has for my purpose. For SMC I used it
3 with my truck, 1999 Classic. I put the hitch on that
4 truck and I went to pull my other truck, a 2000 Peterbilt.

5 Q So it had previously been attached to a
6 different vehicle, the wench?

7 A Yes. Yes.

8 Q Okay. What vehicle is that?

9 A It's a 1999 Classic owned by me, by Sergio
10 Cuellar.

11 Q And is that vehicle leased on to SMC?

12 A Yes.

13 Q And was that the only vehicle besides the one
14 involved in this accident that that wench had been
15 attached to SMC owned or leased vehicle?

16 A Yes.

17 Q When did you take it off the 1999 Classic?

18 A Like, in October, October 12th, October, around
19 that time.

20 Q And why did you do that?

21 A Because my 2003 Freightliner did not work, so I
22 pulled it with my 99 Classic, I pulled it with the hitch,
23 that's when it was used.

24 Q So you used the hitch to tow your 2003
25 Freightliner?

1 A Correct.

2 Q Is that -- what year model is the vehicle
3 involved in this accident?

4 A It's a 2003 Freightliner.

5 Q Okay. So you used it to tow that one, the one
6 involved in this accident?

7 A Yes.

8 Q And then at some point you took the wench off
9 the 1999 Classic?

10 A Yes, and hooked it to the 2003 because it was
11 broke down and I had to remove it, so I can use my tractor
12 the 1999 Freightliner I had to use it to haul loads. So I
13 unhooked it and hooked it on to the 2003 that was broke
14 down.

15 Q And that was sometime in the middle of
16 October 2015?

17 A Correct.

18 Q After attaching it to the 2003 Freightliner, but
19 before this accident, had it been used to tow anything?

20 A No.

21 Q Did Roy Salinas ever work for SMC?

22 A Yes, he did.

23 Q When was that?

24 A It was in 2015. I don't have the specific date,
25 but I know he got out like in August or September of 2015.

1 Q Do you know when he started?

2 A If I'm correct it was like August or January of
3 2015, around that time. If it was August 2014 or
4 January 2015, around that time. I don't have the specific
5 date.

6 Q But he stopped working for you in August or
7 September of 2015?

8 A Yes.

9 Q Why did he stop working for you?

10 A He stopped working for SMC to go work with
11 Salinas Express which was his brothers.

12 Q When he, when Roy worked for SMC what vehicle
13 did he drive?

14 A He used to drive his own vehicle. It's a 1998
15 or 1997 Peterbilt.

16 Q So had that been, vehicle been leased on with
17 SMC Transport?

18 A Yes.

19 Q Had that vehicle been covered under the SMC
20 Transport insurance policy?

21 A Yes.

22 Q When was it taken off?

23 A When he switched to Salinas Express.

24 Q And were you the one who took it off the
25 insurance policy?

1 A Yes.

2 Q Do you know what date and month that was?

3 A No.

4 Q Roy is not the titled owner to that vehicle --

5 MR. DUNN: Which vehicle are you talking
6 about?

7 Q -- his 1998 Peterbilt?

8 A I don't know if he is. I think he is. I don't
9 know. I'm not sure.

10 Q Did you have to provide any information to the
11 insurance company in order to get coverage for that
12 vehicle?

13 A Yes.

14 Q What information did you have to provide?

15 A It's the registration of the vehicle, make and
16 model, the VIN number.

17 Q And is that a paper form you have to fill out or
18 did you do that over the internet or the phone?

19 A It's -- the registration is a paper and I have
20 to fax it over or scan it over.

21 Q At the time this accident happened, SMC
22 Transport had an insurance policy with United Specialty
23 Insurance Company; is that correct?

24 A I think. I think, yes.

25 Q Do you have a particular agent that you would

1 deal with?

2 A The agent that I deal with is Clements Agency.

3 Q Clemons or Clements?

4 A Clements.

5 Q Clements Agency. And where are they located?

6 A Gees, I don't even though. I don't know.

7 Q You don't go there in person?

8 A No.

9 Q You deal with them over the phone?

10 A Over the phone.

11 Q Are they in Texas somewhere?

12 A Yes, it's a Texas number.

13 Q Do you deal with a particular person there?

14 A Yes, his name is Greg. I just know him by Greg
15 and Brittany, those are the two I talk to.

16 Q Greg and Brittany.

17 The vehicle involved in this accident, did
18 it have a current Texas DMV registration at the time of
19 the accident?

20 A A register -- yes, it did.

21 Q When was the first time you registered it, that
22 vehicle?

23 A If I'm correct it was sometime in August.

24 Q 2015?

25 A Yes.

1 Q And did you ever add it to any SMC insurance
2 policy?

3 A Did I ever add it?

4 Q Yeah.

5 A Yes. I mean, yes, it has insurance.

6 Q When did you add it?

7 A I don't have the specific date.

8 Q Was it before this accident or after this
9 accident?

10 A I'm not sure on that.

11 Q How do you -- when you need to add or subtract a
12 vehicle from your insurance policy, how do you go about
13 doing that?

14 A An e-mail, shoot -- I send an e-mail stating to
15 add a vehicle or to remove a vehicle.

16 Q To Greg or Brittany?

17 A Yes.

18 Q Have you checked your e-mails to see if you sent
19 any e-mail concerning the vehicle in this case?

20 A No, I have not checked.

21 Q Do you have the ability to do that?

22 A I think I do.

23 Q In October 2015, did Roy Salinas or did someone
24 ask to borrow the vehicle involved in this accident?

25 A Yes, Roy Salinas asked me to borrow it.

1 Q Do you know what date he asked you to borrow it?

2 A I don't remember.

3 Q What did he tell you when he asked to borrow it?

4 A He said if he could use my tractor to go pick up
5 his tractor.

6 Q Did he specify which tractor?

7 A He says his was broke down, and that's all I
8 know.

9 Q Did he specify which have tractor he wanted to
10 borrow?

11 A No, he just asked to borrow a tractor.

12 Q And so did you -- did you tell him he could
13 borrow a tractor?

14 A Yes, I told him he could.

15 Q Did you suggest to him which tractor to borrow?

16 A The only tractor that was parked was the 2003
17 that had been parked.

18 Q So was -- did you tell him you can borrow the
19 parked 2003?

20 A Yes.

21 Q Did he know that it had, it was the one that had
22 the wench attached to it at the time?

23 A Yes.

24 Q How did he know that?

25 A Because he wanted to borrow the tractor with the

1 hitch to pick up his.

2 Q Yeah. Did he know which vehicle the wench was
3 attached to at the time?

4 A No, he didn't which one was.

5 Q So he just wanted to borrow the vehicle with the
6 wench?

7 A Correct.

8 Q And you said it's attached to the one involved
9 in this accident, you can borrow that one?

10 A Yes.

11 Q Did you talk to him at all about any mechanical
12 difficulties it had been having?

13 A No.

14 Q Did you talk to Rudy Salinas at all about Roy
15 borrowing that truck?

16 A I don't remember.

17 Q You may have?

18 A Maybe.

19 Q So did you meet Roy somewhere to give him the
20 keys to that, to the truck involved in that accident?

21 A Actually, I on that I helped Roy Salinas because
22 they couldn't hook up to another truck they were taking up
23 there to pick up their trailer, I don't know where. But
24 he told me, can you help me hook on. They couldn't hook
25 on so I helped out because I was the owner.

1 Q Had he already picked up the truck before you
2 met him to show them how to hook up the tractors?

3 A Yes.

4 Q So he picked it up and went and they, and they
5 tried to hook it up themselves but it didn't work?

6 A Correct.

7 Q And you met them at a truck stop?

8 A Yes.

9 Q Roy, and do you know how many other people were
10 there?

11 A If I'm correct about two other people.

12 Q Did you know either of those two other people?

13 A I know one of them his name is, we call him
14 pecas. I don't know his name. We call him pecas, so.

15 Q That's a nickname?

16 A A nickname.

17 Q And do you know how to spell that?

18 A P-E-S-O -- P-E-C-O-S (sic), pecas.

19 Q Do you think that might be Eddie Lozano?

20 A Yes, it's him.

21 Q How long have you known him?

22 A I've known him about two years.

23 Q And how do you know him?

24 A I know he's a driver for Salinas Express.

25 Q And did you know the other person there?

1 A No.

2 Q Were you ever introduced to him?

3 A No.

4 Q Do you remember where you met the three of them?

5 A I know it was a truck stop. I don't remember.

6 I think it was a Valero.

7 Q Is -- was it in McAllen, was it in...

8 A It's in Weslaco, Texas.

9 Q Weslaco.

10 Did you go there in response to a phone
11 call from Roy?

12 A Yes.

13 Q And what did he tell you in that phone call?

14 A That he couldn't hook up. He didn't know how to
15 do, how to hook it on.

16 Q So did you go over there to show them how to do
17 it?

18 A Yes.

19 Q And what were they -- what were they trying to
20 do?

21 A They were trying to hook up the truck, a
22 Peterbilt, a white Peterbilt they were trying to hook on
23 to it.

24 Q On to the SMC Transport truck.

25 A Correct.

1 Q Was it a Salinas Express vehicle?

2 A Yes.

3 Q And did you assist them with doing to that?

4 A Yes.

5 Q Do you know what day that happened on?

6 A No, I don't.

7 Q Did -- how long in between the phone call when
8 Roy says can you come help us and when he first picked up
9 the SMC truck?

10 A For how long?

11 Q Yeah. How long had he had it?

12 MR. DUNN: I'm going to object to the form
13 of the question. I'm not sure what you're asking.

14 Q (By Ms. White) How long had he had the truck in
15 his possession before he called you?

16 A I don't know. I remember him calling me to go
17 help him hook on and I met him, like, I'm going to say
18 within an hour.

19 Q All right. So had he -- but he had picked up
20 the truck the same day, the SMC truck?

21 A If -- that same day or the day before. I'm not
22 sure.

23 Q And you gave him the keys to it?

24 A They were on. I always leave my keys on.

25 Q You leave them in the truck?

1 A Yes.

2 Q But you knew that he was taking the truck?

3 A Correct.

4 Q And you were okay with that?

5 A Yes.

6 Q Did you give him any restrictions on who could
7 drive the truck?

8 A I know that I loaned the truck to Roy Salinas.

9 Q But you didn't -- you didn't tell him that no
10 one else could drive it?

11 A I didn't know somebody else was going with him.

12 Q Yeah.

13 A I gave Roy Salinas.

14 Q But you saw at least one other Salinas driver
15 there?

16 A Yeah, but there was other vehicles there.

17 Q I understand. But I just want to be clear. You
18 didn't tell Roy that no one else could drive it?

19 A No, I didn't.

20 Q Did you give him any other instructions about
21 the use of the vehicle?

22 A No.

23 Q Do you know where they were headed when they
24 left the truck stop?

25 A To pick up Roy's truck, that's all I know.

1 Q Was it dark when they left?

2 A No.

3 Q Still daytime?

4 A 8:00 a.m. or 10:00 a.m. I don't know. I'm not
5 sure.

6 Q Did they tell you they were headed to Houston
7 first?

8 A They didn't tell me nothing. Just said -- don't
9 know.

10 Q Did you know where Roy's truck was?

11 A No.

12 Q Did you know that it had broken down in
13 Virginia?

14 A No.

15 Q Did you know how long to expect that your
16 vehicle would be gone?

17 A No.

18 Q When was the next time you heard from Roy?

19 A If I'm correct, it was the day of the accident.

20 Q And did he call you from Virginia?

21 A He just called me, hey, we were in an accident,
22 and that's all he told me. He was trying to explain to me
23 what happened. He said that they were parked and that a
24 vehicle hit them.

25 Q Did he tell you who was driving?

1 A No, he didn't.

2 Q And that was the -- that was how he described
3 the accident that the vehicle was parked and some one hit
4 the vehicle?

5 A Yes.

6 Q Did he say anything else about how the accident
7 happened?

8 A No. He just said they were hooking on and that
9 they were parked when they were hooking on to his tractor
10 and somebody hit him.

11 Q Do you know if he was calling you from the
12 accident scene?

13 A I, I assume. I mean, where else would he be
14 calling me from.

15 Q And did he tell you where he was calling you
16 from?

17 A No.

18 Q Did you hear anything in the background that
19 indicated to you that he might be in an accident scene?

20 A No.

21 Q Did you talk to anyone else at that time who,
22 like, on Roy's phone?

23 A I don't remember.

24 Q Did Roy tell you that he had been carrying a
25 load when his truck broke down?

1 A Yes.

2 Q So ultimately part of this trip up to Virginia
3 with your truck was to, the point of it was to allow the
4 Salinas Express load to be delivered?

5 A Correct.

6 Q And also, the point was to allow Roy's broken
7 down Salinas Express truck to complete the last leg of its
8 journey to Texas?

9 A Correct.

10 Q Did you ever have any conversation with Rudy
11 about the accident?

12 A No.

13 Q Did you ever have any conversation with Roy on
14 his way up to Virginia?

15 A No.

16 Q Did you have any conversation with him on his
17 way back from Virginia?

18 A On his way back I called him to see where they
19 were at, I mean, how was the truck.

20 Q What did he say?

21 A That he was -- it was fine, was he was driving.

22 Q Do you know when they got back to Texas?

23 A I don't have the -- I don't know.

24 Q Do you know who drove the SMC truck back to
25 Texas?

1 A I know Roy turned it into me.

2 Q Did it have damage on it at the time?

3 A The bumper and the headlight on the drive's
4 side.

5 Q And was it fully across the bumper or just more
6 on one side?

7 A It was more on the driver's side, but, yes, it
8 was, the bumper was, I guess, bent.

9 Q And was the vehicle repaired?

10 A It was just -- I just replaced the bumper,
11 that's all I did, and that's all I had to do to it replace
12 the bumper.

13 Q So you made the repairs to the vehicle?

14 A Yes.

15 Q When was the vehicle repaired?

16 A The day they brought it to me I just took off
17 the bumper with four screws and put a new one with four
18 screws.

19 Q So you already had a bumper?

20 A Yes.

21 Q Where did you get it?

22 A We have other trucks that are similar.

23 Q So did any -- anyone reimburse you for the
24 repairs?

25 A There was no repair. It was just bumper that I

1 had laying around.

2 Q So did you receive any money from any source for
3 damage done to the SMC tractor from this accident?

4 A No.

5 Q Roy never gave you any money?

6 A No.

7 Q And Rudy never gave you any money?

8 A No.

9 Q Have you ever had any conversation with Roy
10 about the insurance on the vehicle at any time?

11 A No.

12 Q Have you ever had any conversation with Rudy
13 about the insurance on the vehicle at the time?

14 A No.

15 Q Have you ever spoken to Israel Martinez?

16 A Not that I remember.

17 Q Do you know who he he is?

18 A I've seen him in a truck stop, I mean, not there
19 but different day to day, I saw him in truck stop, we pass
20 by each other.

21 Q Was that before or after the accident?

22 A After.

23 Q What was he doing at the truck stop?

24 A He was with Salinas Express.

25 Q He was driving a Salinas Express tractor?

1 A He was with one of Salinas. I saw him at a
2 truck stop. I don't know whether he was driving a Salinas
3 truck, I don't know if he was just at the truck stop and
4 met Salinas driver there.

5 Q Do you know what truck stop it was?

6 A If I'm correct it was McCullough, Alabama.

7 Q Alabama?

8 A Yes.

9 Q Do you know approximately when?

10 A Around December.

11 Q 2015?

12 A Yes.

13 Q Did you see any other Salinas Express drivers
14 there?

15 A I just Ruben Salinas.

16 Q Jr. or Sr.?

17 A Jr.

18 Q And did you have any conversation with Ruben?

19 A Yes.

20 Q And what did you guys talk about?

21 A How are you doing. I mean just said hello.
22 We're cousins, you know.

23 Q Did he tell you where he was going?

24 A He was coming home.

25 Q Did he tell you where he was coming home from?

1 A No.

2 MR. HEARN: Sorry. Did you say Jr. or Sr.?

3 THE WITNESS: Ruben Salinas Jr.

4 MR. HEARN: Thank you.

5 Q (By Ms. White) Okay. And did you talk to
6 Mr. Martinez at the time?

7 A I just said hi, I mean, at that time.

8 Q Is that the only conversation you've ever had
9 with Israel Martinez?

10 A Yes.

11 Q Had you ever met him at all before the accident?

12 A No.

13 Q Had you ever seen him driving a Salinas Express
14 truck before the accident?

15 A No.

16 Q Besides this one occasion in Alabama had you
17 ever, have you ever seen him driving a Salinas Express
18 truck other than this one time in Alabama?

19 A Like I said, on that time in Alabama, I don't
20 know if he was driving a Salinas truck. We were parked at
21 the truck stop. We were all inside the restaurant.

22 Q Okay. And so have you ever -- have you seen him
23 driving a Salinas Express truck?

24 A No.

25 Q Have you ever had any conversation with Rudy